IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

Crl.MC.No. 4662 of 2002()

CC.331/1997 of JUDL.MAGISTRATE OF FIRST CLASS-I, ALUVA

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PETITIONER: ACCUSED NO.4

BROOKE BOND LIPTON INDIA LIMITED,9,
SHAKESPEARE SARANI,CALCUTTA-700 001,REPRESENTED
BY IT'S BRANCH MANAGER,MR.S.K.GHATAK

BY ADV. SRI.N.A.MURALEEDHARAN
SRI.M.T.SURESHKUMAR

RESPONDENTS: COMPLAINANT AND STATE

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1. T.A.MAJEED,THE FOOD INSPECTOR,
ALUVA MUNICIPALITY,ALUVA.

2. THE STATE OF KERALA,REPRESENTED BY THE
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,ERNAKULAM

BY PUBLIC PROSECUTOR, SRI AMJAD ALI

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 25/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P.NO.3143/2002 IN CRL.M.C.NO.4662/2002

CLOSED.

SD/- K.R.UDAYABHANU, JUDGE

25/10/2007

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K.R.UDAYABHANU, J.

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Crl.M.C.No.4662 of 2002-C

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Dated this the 25th day of October, 2007

O R D E R

The petitioner who is the fourth accused in C.C.No.331/1991 in the file of the Judicial Magistrate of the First Class-I, Aluva, with respect to the offences under Sections 2(ia)(a)(m), 7(i) read with Section 16(1)(a)(i) of the Prevention of Food Adulteration Act, has sought for getting quashed the above proceedings alleging that the mandatory provision contained in Section 13(2B) of the P.F.A Act that stipulates that the Director of the Central Food Laboratory should return the certificate after analysis to the court in the prescribed form within one month from the date of receipt of the part of the sample specifying the result of the analysis.

2. In the instant case the sample of skimmed milk powder was taken on 16/12/1996. The Public Analyst report is dated 22/01/1997. The complaint has been instituted on 12/06/1997. On the request of the accused/petitioner herein the remaining sample was forwarded to the Central Food Laboratory on 22/10/1997. The certificate of analysis by the Central Food Laboratory is dated 17/12/1997. Hence,

evidently more than one month have elapsed since the date of receipt of the sample by the Director of Central Food Laboratory. It is also to be noted that after taking sample by the Food Inspector exactly one year have elapsed till the date of the certificate of the Central Food Laboratory. The counsel has relied on the decision of **Darshan Lal v. The State of Punjab [1982(I) F.A.C 290]**, **Mohan Lal v. The State of Haryana [1984(II)F.A.C 206] and, Syed Ahmad v. State of U.P. [1996 (2) F.A.C 229]**. The various High Courts have stressed the fact that the provision contained in Section 13(2B) of the P.F.A Act that the Director of the Central Food Laboratory should return the findings to the court within one month from the date of receipt of the sample is mandatory. Moreover, as noted above it is after one year of taking the sample that the same has been analysed at the Central Food Laboratory. Evidently, the quality of the commodity would have deteriorated. In the circumstances, I find that the accused is entitled to get the proceedings quashed. In the result, the entire proceedings pending as C.C.No.331/1997 in the file of the Judicial Magistrate of the First Class-I, Aluva, is herewith quashed. The Crl.M.C is allowed.

K.R.UDAYABHANU,
Judge

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